

ISSUE DATE: February 29, 1996

DOCKET NO. P-3092/TC-95-684

DOCKET NO. P-3092, 3143/C-96-125

ORDER REVOKING AUTHORITY AND OPENING COMPLAINT DOCKET

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs  
Tom Burton  
Marshall Johnson  
Dee Knaak  
Don Storm

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Relinquishment of a  
Certificate of Authority to Resell Long  
Distance Telecommunications Services in the  
State of Minnesota

ISSUE DATE: February 29, 1996

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In the Matter of a Complaint by the  
Department of Public Service Regarding  
Possible Violation of Minn. Stat. § 237.23

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**PROCEDURAL HISTORY**

On October 1, 1992, the Commission issued an Order granting Enterprise Telcom Services, Inc. (ETS or the Company) a certificate of authority to resell long distance telecommunications services in Minnesota. Docket No. P-3092/NA-92-487.

On June 26, 1995, ETS filed a letter requesting de-certification and/or cancellation of its certificate of authority. ETS requested that the effective date of the relinquishment of its authority be January 1, 1995.

On June 27, 1995, an ETS operator told the Minnesota Department of Public Service (the Department) that ETS had merged with GE Capital Communication Services Corp., d/b/a GE Capital Exchange (GE Exchange).

On September 25, 1995 an ETS representative denied that a merger had taken place and stated that a letter would be sent to the Department verifying this situation.

On October 10, 1995, GE Exchange responded that ETS' customer base had not been sold to GE Exchange, but that GE Exchange paid ETS for the right to directly market to ETS' former customers. The GE Exchange representative stated that a letter would be sent to the Department verifying that.

To-date, no letter from either company has been received.

On February 6, 1996, the Commission met to consider this matter.

**FINDINGS AND CONCLUSIONS**

### **A. Revocation of Authority**

The Commission will grant ETS' request to relinquish the authority granted it by the Commission in its October 1, 1992 Order in Docket No. P-3092/NA-92-487. It is clear that ETS is out of business as a telephone provider and an appropriate way to confirm that status is to revoke the Company's certificate of authority.

### **B. The Department's Complaint**

The Department's comments on the Company's relinquishment request raised the issue whether ETS' transaction with GE Exchange without receiving prior approval from the Commission violates Minnesota statutes. Specifically, the Department charged that the purchase of marketing rights to ETS customers by GE Exchange violated Minn. Stat. § 237.23 (1994).

### **C. Commission Analysis of the Department's Complaint**

The Commission will handle the Department's charge as a formal complaint pursuant to Minn. Rules, Parts 7829.1700 through 7829.1900. Before proceeding with a formal complaint, Minn. Rules, Part 7829.1800, subp. 1 requires the Commission to make two initial determinations: whether it has jurisdiction over the matter and whether there are reasonable grounds to investigate the allegations.

#### **1. Jurisdiction**

The Commission clearly has jurisdiction over the matter. The transaction challenged relates to the provision of telecommunications services and the parties to that transaction have provided or currently do provide telephone service in Minnesota.

#### **2. Grounds for investigation**

At this point, the Commission is currently without sufficient information regarding the companies' status to determine whether the parties are telephone companies subject to Minn. Stat. § 237.23 (1994) or telecommunications carriers subject to Minn. Stat. § 237.74 (1994). However, the facts presented by the Department together with the companies' failure to provide any explanation to-date provide reasonable grounds to investigate the companies' failure to secure pre-transaction approval from the Commission. The Commission has consistently viewed compliance with its rules requiring pre-transaction approval as important.

**D. Commission Action Regarding the Department's Complaint**

Accordingly, each company will be directed to file an answer within 20 days of this Order responding to the charge that they have violated Minn. Stat. § 237.23 (1994) or, if applicable, Minn. Stat. § 237.74 (1994) in connection with the acquisition of marketing rights to ETS' customers by GE Exchange.

**ORDER**

1. The certificate of authority of Enterprise Telcom Services, Inc. is revoked.
2. ETS and GE Exchange are hereby notified of the complaint.
3. Within 20 days of this Order, each company (respondent) shall file its answer with the Commission and serve copies simultaneously upon the Department and the Office of the Attorney General.
3. Any replies to the companies' answers must be filed within 20 days of the end of the answer period. Any such replies shall be filed with the Commission and served simultaneously upon the companies and the other parties to this matter.
4. This Order shall take effect immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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